

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION**

GREGORY L. CANNON,)	
)	
Plaintiff,)	
)	No. 2:23-cv-02143-SHM-tmp
v.)	
)	JURY DEMAND
FEDERAL BUREAU OF PRISONS, ET AL.,)	
)	
Defendants.)	
)	

**ORDER DISMISSING CASE PURSUANT TO FED. R. CIV. P. 41(b)
FOR FAILURE TO COMPLY WITH THE COURT’S ORDERS;
CERTIFYING AN APPEAL WOULD NOT BE TAKEN IN GOOD FAITH;
AND NOTIFYING CANNON OF THE APPELLATE FILING FEE**

On March 10, 2023, Plaintiff Gregory L. Cannon, Bureau of Prisons register number 13550-006, filed a *pro se* complaint pursuant to 28 U.S.C. § 1331. (ECF No. 1.) When Cannon filed the complaint, he was confined at the Federal Correctional Institution, in Memphis, Tennessee. (ECF No. 1-3 at PageID 13.) Cannon did not: (1) pay the civil filing fee; or (2) submit a properly completed application to proceed *in forma pauperis* and a copy of his trust account statement for the last six months, as required by 28 U.S.C. § 1915(a)-(b).

On March 20, 2023, the Court ordered Cannon to comply with 28 U.S.C. § 1915(A)(1)-(2) or pay the civil filing fee. (ECF No. 3 (the “March 20, 2023 Order”).) The Court warned Cannon that if he failed to comply with the March 20, 2023 Order in a timely manner, the Court would “deny leave to proceed *in forma pauperis*, assess the entire \$402 filing fee from his inmate trust account without regard to the installment payment procedures, and dismiss the action without further notice for failure to prosecute pursuant to Federal Rule of Civil Procedure 41(b).” (*Id.* at

PageID 2.) On August 7, 2023, the Court dismissed the complaint without prejudice pursuant to Fed. R. Civ. P. 41(b) because Cannon did not comply with the March 20, 2023 Order. (ECF No. 4 (the “August 7, 2023 Order”).) On August 7, 2023, the Court entered judgment, dismissing the case with prejudice. (ECF No. 5.)

On August 22, 2023, Cannon filed a “response to Court order dated August 7, 2023.” (ECF No. 6.) Cannon alleged, *inter alia*, that “it takes approximately two weeks to a month to receive my mail from the courts or legal mail” and that he suffers from several health conditions. (*Id.* at PageID 26-27.) On September 21, 2023, Cannon filed a motion for extension of time to submit an application to proceed *in forma pauperis*. (ECF No. 7.)

On January 30, 2024, the Court entered an Order: (1) re-opening this case and granting Cannon an extension of thirty (30) days to file an *in forma pauperis* application; and (2) directing the Clerk of Court to mail a prisoner *in forma pauperis* affidavit form to Cannon. (ECF No. 8 (the “Order To Re-Open”) at PageID 34.) The Court warned Cannon that if he “fails to comply with this Order in a timely manner, the Court will deny leave to proceed *in forma pauperis*, assess the entire \$402 filing fee from his inmate trust account without regard to the installment payment procedures, and dismiss this action without further notice for failure to prosecute pursuant to Federal Rule of Civil Procedure 41(b).” (*Id.* at PageID 35.)

On February 20, 2024, the copy of the Order To Re-Open that the Clerk had mailed on January 31, 2024 to Cannon at his address of record at the Federal Correctional Institution, in Sheridan, Oregon, was returned marked undeliverable. (ECF No. 9 (the “Returned Mail”).)

On February 29, 2024, the Court granted Cannon an additional thirty (30) days to pay the civil filing fee or submit an application to proceed *in forma pauperis* because the Federal Bureau of Prisons website suggested that Cannon had been transferred to the Federal Correctional

Complex, in Terre Haute, Indiana (the “FCI-Terre Haute”). (ECF No. 10 (the “February 29, 2024 Order”) at PageID 43.) The Court directed the Clerk to mail to Cannon at the FCI-Terre Haute: (1) the March 20, 2023 Order; (2) the Order To Re-Open; (3) the Returned Mail; and (4) a prisoner *in forma pauperis* affidavit form. (*Id.* at PageID 44.)

On April 29, 2024, the mail that the Clerk had sent on March 1, 2024 to Cannon was returned as undeliverable. (ECF No. 11 at PageID 49.)

On June 6, 2024, the Clerk of Court re-sent the March 20, 2023 Order (ECF No. 3), the Order To Re-Open (ECF No. 8), and the February 29, 2024 Order (ECF No. 10) to Cannon at the FCI-Terre Haute.

Cannon has failed to comply with the March 20, 2023 Order, the Order To Re-Open, and the February 29, 2024 Order. Accordingly, dismissal is warranted.

For these reasons, the Court DISMISSES this case with prejudice in its entirety for the reasons discussed in the March 20, 2023 Order, the Order To Re-Open, and the February 29, 2024 Order. Judgment will be entered in accordance with those prior Orders.

Pursuant to Federal Rule of Appellate Procedure 24(a) and 28 U.S.C. § 1915(a)(3), it is CERTIFIED that any appeal in this matter by Cannon would not be taken in good faith. If Cannon nevertheless chooses to file a notice of appeal, Cannon must either (1) pay the entire six hundred and five dollar (\$605.00) appellate filing fee or, if Cannon is confined at that time, (2) submit a new *in forma pauperis* affidavit and a current, certified copy of Cannon’s inmate trust account statement for the last six months, in compliance with 28 U.S.C. §§ 1915(a)-(b).

IT IS SO ORDERED, this 11th day of July, 2024.

/s/ Samuel H. Mays, Jr.
SAMUEL H. MAYS, JR.
UNITED STATES DISTRICT JUDGE